

Assembly Bill No. 3016

CHAPTER 645

An act to amend Sections 18705, 18707, 18708, and 18709 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3016, Cook. Personal income taxes: contributions: California Military Family Relief Fund.

The Personal Income Tax Law allows taxpayers, until January 1, 2010, to designate on their tax returns that a specified amount in excess of their tax liability be contributed to the California Military Family Relief Fund to provide financial aid grants to members of the California National Guard who are California residents.

This bill would revise these provisions to specify that the contributions to the California Military Family Relief Fund be used to provide financial aid grants to eligible reserve members of the United States who are California residents, and that the awarding of grants be governed by a Memorandum of Agreement.

This bill would specify that moneys transferred to the California Military Family Relief Fund before January 1, 2009, be reserved for the California National Guard. This bill would allow the California National Guard to make moneys transferred to the California Military Family Relief Fund before January 1, 2009, available for distribution to qualified members of the reserve component until adequate moneys are available to ensure that all approved grants are funded.

This bill also would require members to meet certain criteria, as specified, in addition to those criteria already required by these provisions.

This bill would extend the operation of these provisions until January 1, 2015.

The people of the State of California do enact as follows:

SECTION 1. Section 18705 of the Revenue and Taxation Code is amended to read:

18705. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Military Family Relief Fund, established by Section 18706. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Military Family Relief Fund" to allow for the designation permitted.

(1) The forms shall include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to provide financial aid grants to reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty.

(2) The forms shall also include in the instructions information that additional contributions may be made at any time to the California Military Family Relief Fund, from sources other than the tax form.

(f) Notwithstanding any other provision of law, a voluntary contribution designation for the California Military Family Relief Fund may not be added to the tax return until another voluntary contribution designation is removed.

(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 2. Section 18707 of the Revenue and Taxation Code is amended to read:

18707. All moneys transferred to the California Military Family Relief Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) (A) To the Military Department for the establishment of financial aid grants to reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty. Moneys transferred to the California Military Family Relief Fund before January 1, 2009, shall be reserved for the California National Guard. Grants to the members of the California National Guard shall first be distributed from moneys transferred to the California Military Family Relief Fund before January 1, 2009, and only after these moneys are exhausted shall these

grants be awarded from moneys transferred to the California Military Family Relief Fund on and after January 1, 2009. The Military Department shall establish eligibility criteria for the grants.

(B) On or after January 1, 2009, the California National Guard may make moneys transferred to the California Military Family Relief Fund before January 1, 2009, up to one hundred thousand dollars (\$100,000), available for distribution to qualified members of the reserve component, excluding members of the California National Guard, until adequate moneys are available to ensure that all approved grants are funded. These distributed moneys shall be repaid to the California National Guard with moneys transferred to the California Military Family Relief Fund on and after January 1, 2009.

(2) It is the intent of the Legislature that every qualified reserve member, regardless of branch, in need of emergency assistance be able to receive a grant. In order to ensure that the grants awarded pursuant to this article are administered objectively, the awarding of grants from the California Military Family Relief Fund shall be governed by a Memorandum of Agreement, developed by a working group comprised of representatives from at least three reserve components that describe the procedures and requirements for participation in the grant program. All organizations participating in the grant program must be signatories of the Memorandum of Agreement.

(3) In addition to criteria established by the Military Department pursuant to paragraph (1), reserve members of the Armed Forces of the United States who are California residents shall show proof of all of the following to be eligible to receive a grant:

(A) Membership in the Armed Forces of the United States.

(B) Residency in California.

(C) Deployment to active duty for at least 60 consecutive days.

(D) One of the following:

(i) The military salary of the member, combined with any ongoing partial receipt of civilian salary, has decreased by 10 percent or more from the member's civilian salary, or the household income of the member's family has decreased by 10 percent or more from the member's household income prior to deployment.

(ii) The member, within six months of returning from active duty, has experienced a 10-percent loss, or greater, in income, compared to predeployment income, as a direct result of deployment.

(4) Grants awarded pursuant to this article may only be used for any of the following: food, housing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle-related payments.

(5) Reserve members of the Armed Forces of the United States who are California residents may not be eligible to receive a grant if the member receives a punitive discharge or an administrative discharge with service characterized as under other than honorable conditions.

(6) Reserve members of the Armed Forces of the United States who are awarded grants pursuant to this article may be required to receive counseling, within a specified time period, as a condition of the grants.

SEC. 3. Section 18708 of the Revenue and Taxation Code is amended to read:

18708. The Legislature finds and declares all of the following:

(a) Due to the extended wars and conflicts around the globe, deployment of reserve members of the Armed Forces of the United States can average a year or more.

(b) Private companies do not generally offset the difference in their employees' reduced salaries while serving overseas. Military families are losing as much as 70 percent of their household income when a primary income producer serves on active duty.

(c) It is the intent of the Legislature, in enacting this article, to establish a fund for the granting of relief aid to persons who are reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty.

SEC. 4. Section 18709 of the Revenue and Taxation Code is amended to read:

18709. (a) This article shall, subject to subdivision (b), remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Military Family Relief Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Adjutant General of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the 2006 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2007, the Franchise Tax Board shall adjust, on or before September 1 of that calendar

year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

(e) Notwithstanding the amendments made to this section by the act adding this subdivision, if, by September 1, 2006, the Franchise Tax Board determines that the amount of contributions estimated to be received during the 2006 calendar year will not be at least two hundred fifty thousand dollars (\$250,000), this article is repealed with respect to returns filed for taxable years beginning on or after January 1, 2006.